

Internal Revenue Service

Department of the Treasury

Southwest Region

Address any reply to Appeals Office

Person to Contact:

Telephone Number:

Refer Reply to:

Date: 4 JAN 1984

CERTIFIED MAIL

Dear Sir or Madam:

This is a final adverse determination with respect to your exempt status under section 501(c)(3) of the Internal Revenue Code.

The adverse determination was made because you are not operated exclusively for exempt purposes and because more than an insubstantial part of your activities are in furtherance of private interests. Further, it is determined that you have failed to exhaust administrative remedies in accordance with section 7428(b)(2) of the Internal Revenue Code.

Contributions made to your organization are not deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns with your Service Center Director for taxable years for which the filing date of the appropriate return has passed. These returns should be filed within 60 days of the date of this letter. Processing of an income tax return and assessing any taxes due will not be delayed because a petition for a declaratory judgment has been filed under section 7428 of the Internal Revenue Code.

We will notify the appropriate state officials, as required by section 6104(c) of the Code, that based on the information we have available, we are unable to recognize you as an organization described in section 501(c)(3) of the Internal Revenue Code.

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If you decide to contest this determination in court, a petition for a declaratory judgment proceeding in the United States Tax Court, the United States Court of Claims, or the United States District Court for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the Clerk of the appropriate court for rules for filing petitions for declaratory judgment. For more information, please see the declaratory judgment section of the enclosed Publication 892.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,

A solid black rectangular box used to redact the signature of the Associate Chief, Appeals.

Associate Chief, Appeals

Enclosure:  
Publication 892

8 JUL 1982

Continued:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit laws of the State of [REDACTED].

Your activities include the collection, verification and research of historical and genealogical data. Your organization has also published a book, "[REDACTED]", and plan a second volume. Your financial data discloses income of \$[REDACTED] from the book sales, minus related expenses of \$[REDACTED] for a profit of \$[REDACTED].

You state you are an association of [REDACTED] descendants and other persons interested in research on the family.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or individual...."

Section 1.501(c)(3)-1(b)(1)(i) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its Articles of Organization -

"(A) state the purposes of such organization to one or more exempt purposes; and

(B) do not expressly restrict the organization to engage, otherwise than incidentally, in part of its activities, in activities which inure primarily to the furtherance of one or more exempt purposes...."

Section 1.501(c)(3)-1(b)(1)(ii) of the Income Tax Regulations provides that:

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)...."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that all the organizations there described must serve a public rather than a private interest.

The case of *The Calvary Family Association, Inc. v. Commissioner of Internal Revenue Service*, 71 T.C. 340, (1978), held that a family association formed as a nonprofit corporation to study immigration to and migration within the United States by focusing on its own family history and genealogy does not qualify for exemption under section 501(c)(3) of the Code. The association's activities included researching the genealogy of its members for the ultimate purpose of publishing a family history. The court stated that the association's family genealogical activities were not insubstantial and were not in furtherance of an exempt purpose. Rather, they served the private interests of the members. Thus, the association was not operated exclusively for exempt purposes.

Also in the case of *The Benjamin Price Genealogical Association v. Internal Revenue Service*, 79-1, USTC para. 9351, the organization was incorporated as a nonprofit corporation under the District of Columbia nonprofit corporation act. Its principal activities include an annual meeting of its membership and the dissemination of newsletters providing tips to its members on research and the preservation of ancient documents, the business news of the organization and compositions concerning the genealogy of Benjamin Price. The association's membership was almost exclusively comprised of relatives of Benjamin Price. In this case the court held that the association was primarily organized and operated for the benefit of private interests, its articles of incorporation failed to limit the organization to one or more exempt purposes, and more than an insubstantial part of the association's activities were not in furtherance of exempt purposes.

In both of the above court cases the organizations relied heavily on Revenue Ruling 71-580, 1971-2 C.B. 235, in which tax-exempt status was granted a family association that furnished genealogical information to the Mormon Church which it needed to conduct certain religious ordinances in accordance with basic religious doctrine. The organization was granted exemption as a religious organization under section 501(c)(3). The court felt in both of the above cases that there was sufficient basis for distinguishing between the circumstances in their cases and those incorporated in Revenue Ruling 71-580.

Revenue Ruling 80-302, held that a organization is not exempt whose activities include the compilation of genealogical data on its members. This data is recorded and documented, held for use by members, and presented to designated filers. Copies of the genealogical data are made available for a fee to any interested individuals, generally family members, who request such data. The organization utilizes the data in preparing and publishing volumes of family history.

[REDACTED]

Your organization is similar to those cited above in that you are researching the genealogy and history of the [REDACTED] Family. You have published one volume of this data and are in the process of planning a second volume. Your membership is open to [REDACTED] descendants and other interested in research on the [REDACTED] Family. Your organization is not operated exclusively for one or more exempt purposes but rather for the private interests of your family members.

On the basis of the information submitted we have concluded that you are not exempt from Federal income tax under section 501(c)(3). Therefore, you are required to file Federal income tax returns on form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6015 in the enclosed self-addressed envelope as soon as possible.


If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

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Sincerely yours,

  
District Director

Enclosures:  
Publication 892  
Form 6016